No. 17-312

IN THE
Supreme Court of the United States

UNITED STATES,
Petitioner

v.

RENE SANCHEZ-GOMEZ, ET AL.,
Respondent

On Writ of Certiorari
to the United States Court of Appeals
for The Ninth Circuit

MOTION FOR APPOINTMENT OF COUNSEL

ELLIS M. JOHNSTON III
Clarke Johnston Thorp & Rice PC
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619-756-7632
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Counsel for Respondent Rene Sanchez-Gomez

MOTION FOR APPOINMENT OF COUNSEL

Respondent Rene Sanchez-Gomez hereby moves, pursuant to 18 U.S.C. § 3006A and Supreme Court Rule 39.6 and 39.7, for appointment of Ellis M. Johnston III as his counsel in this matter. In support of this motion, respondent supplies the following information:

1. This Court granted certiorari and respondent's motion to proceed *in forma pauperis* in this case on December 8, 2017.

2. Mr. Johnston is well qualified to undertake this representation. He represented Respondent Sanchez-Gomez as well as the other three respondents whose cases are consolidated here as lead counsel before the Court of Appeals, briefing and arguing their case to the original three-judge panel. He did so under the appointment of Federal Defenders of San Diego, Inc., as a supervisory attorney with that office.

3. Between the time of the original panel's decision in this case and the en banc court's decision to rehear the case, Mr. Johnston left Federal Defenders to enter private practice. He remained counsel of record for Respondent Sanchez-Gomez by appointment from the Ninth Circuit under the Criminal Justice Act 18 U.S.C. §3006A. Federal Defenders continued as appointed counsel for the three other respondents as the case proceeded through the en banc process.

4. Mr. Johnston continued his CJA representation of Respondent Sanchez-Gomez throughout the certiorari phase of these cases before this

Court, drafting and editing Respondents' consolidated brief in opposition to the Solicitor General's petition and consulting with co-counsel from Federal Defenders for the other three Respondents.

5. Once the government's petition for certiorari was granted, Mr. Johnston and Rueben Cahn of Federal Defenders agreed that Mr. Cahn would enter an appearance as counsel of record for all four Respondents in this matter. Mr. Johnston nevertheless continued his representation in this matter, consulting with co-counsel on briefing, drafting and editing the merits response brief, and coordinating and consulting with amici curiae and potential amici regarding this case. Mr. Johnston has also invested substantial time in assisting Mr. Cahn with his preparation for argument in this case. Mr. Johnston will also be attending oral argument on behalf of Respondent Sanchez-Gomez and to assist Mr. Cahn at argument.

6. Since recently entering private practice, Mr. Johnston has devoted his practice almost exclusively to federal CJA appointed cases at both the appellate and district court level.

6. Mr. Johnston has been a member in good standing of the California State Bar since 2002. He is also a member of this Court's bar.

CONCLUSION

For the foregoing reasons, Respondent Sanchez-Gomez respectfully requests that this Court appoint Ellis M. Johnston III as his counsel in this case.

Respectfully submitted,

Date: March 23, 2018

/s/ Ellis M. Johnston III

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